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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,470	12/30/2003	Richard Boudinot	026032-4592	7062

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EXAMINER
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NELSON JR, MILTON

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10748470

Applicant(s)

BOUDINOT, RICHARD

Examiner

Milton Nelson, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01/03/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) 18-20, 29-31, 51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-17, 21-28, 25-43, 45-50 is/are rejected.
- 7) ☒ Claim(s) 14, 32-34, 44 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/30/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 10156723.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information referred to in the information disclosure statement filed December 30, 2003 has been considered.

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on applications filed in Germany. It is noted, however, that applicant has not filed a certified copy of the German applications as required by 35 U.S.C. 119(b).

### ***Specification***

The abstract of the disclosure is objected to because line 6 appears to include a spelling error. Note "father". Correction is required.

The specification is objected to because the last line on page 7 includes vague punctuation. Note ".,." Correction is required.

### ***Election/Restrictions***

Claims 18-20, 29-31 and 51 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected embodiment of the invention, there being no allowable generic or linking claim. Applicant has grouped claim 51 with the elected embodiment of Group I, however claim 51 clearly includes subject matter that is specific to the non-elected embodiment of Group II. Group I is directed to an assembly with a single axis of rotation. Group II is directed to an assembly with plural axes of rotation. Claim 51 provides plural axes of rotation and is therefore specific to Group II. Applicant timely traversed the restriction (election) requirement in the reply filed on January 3, 2005.

The traversal is on the several grounds, none of which are persuasive. Applicant argued that Groups I and II are not independent and at least claim 51 of Group I has a feature of Group II. Independence is not required as the Groups are patentably distinct from one another. Claim 51 is clearly directed to Group II and not Group I. A feature that is shared by claims in both groups does not negate an requirement for election of species. Each of the groups includes a feature that is specific to that group only. As discussed above, Group I includes a single axis of rotation, and Group II includes plural axes of rotation. Applicant further argues that no serious burden is present in examination of all claims directed to both groups. Consideration of the claims directed to the non-elected embodiment adds serious burden. The search of the claims to the non-elected embodiment provides additional serious burden. The non-elected group requires considerable search beyond that of the elected group (e.g. searches in at least

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Class 248, subclass 921, and Class 16, subclass 302 is required). Applicant argues that the groups are not independent because they have a disclose relationship. Such does not negate a proper requirement for election of species. The claims are related by way of a generic independent claim. The requirement establishes patentably distinct embodiments of the invention. Applicant argues that claims 41 and 51 are related as combination and subcombination and two-way distinctness cannot be shown because claim 41 is not distinct from claim 51. The requirement is not based on a combination-subcombination relationship. The requirement is based upon patentably distinct embodiments of the invention.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-16, 27, 35 and 41-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Line 2 of claim 10 includes vague spelling. Note the recitation "may be pivoted father". Similarly note claims 27, 35 and 41. The remaining claims are indefinite since each depends from an indefinite claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 13, 15, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanda (5316369). Note the display (4), clockwise and counter-clockwise pivoting with respect to the seat (about member 6), pivoting opposite to the forward direction (note that after 4 leaves the use position in Figure 2, it travels in the rearward direction after the first 90 degrees of rotation; the first 90 degrees of rotation is in the forward direction); pivoting opposite to the forward direction of travel against action of a spring member (note that from the use position, after the first 90 degrees of rotation, the second 90 degrees of rotation is rearward against the action of spring member 29); , pivoting in the forward direction of travel (from the stored position, the first 90 degrees of rotation is forward; from the use position, the first 90 degrees of rotation of forward); pivoting in the forward direction against action of a spring member (from the use position, the first 90 degrees of rotation is forward, which is against the action of spring member 29); pivoting in the forward direction against action of a damper member (from the use position, the first 90 degrees of rotation is forward against any of the friction mechanisms described in column 4 and shown in Figures 8-14); pivoting opposite to the forward direction (from the use position, the second 90 degrees of rotation is rearward;

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from the stored position, the second 90 degrees of rotation is rearward); pivoting opposite to the forward direction against action of a spring member (from the use position, the second 90 degrees of rotation is rearward against the action of spring member 29) and pivoting in the forward direction of travel against action of a spring member (from the use position, the first 90 degrees of rotation is forward against action of the spring member 29); pivoting opposite to the forward direction against action of a spring member (from the use position, the second 90 degrees of rotation is rearward against the action of spring member 29) and pivoting in the forward direction of travel against action of a damper member (from the use position, the first 90 degrees of rotation is forward against the action of the damper 28); pivoting in the forward direction of travel by generating a first torque (from the stored position, the first 90 degrees is forward and the first torque is provided by the spring member 29), and pivoting further in the forward direction by generating a second torque of greater force than the first torque (from the use position, the first 90 degrees of rotation is forward and the second torque is of greater force than the first force to overcome the action of spring member 29). Also note that the first torque is "about" an amount of force equal to acceleration forces produced by "a" rear collision. Additionally note the multipart frame (10, 6, as shown in Figure 4), first side (screen) and second side (backing wall).

Claims 41-43, 46-48 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanda (5316369). Note the discussion of Kanda, above. Additionally note the braking mechanism (15), and adapter (6).

Claims 1-2, 4, 6-7, 10-11, 13, 15, 17, 21-23, and 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Shafer (1178107). Note the display (4) that moves in both a clockwise and counterclockwise direction (see lines 95-102 on page 2) or forwardly and rearwardly depending on the movement and orientation of the backrest. Also note the capability of torque to provide slight pivoting and application of torque that allows pivoting of 90 degrees. Note that rotation of the display provides the capacity for it to face in either direction (note Figures 2 and 4). Also note the multipart frame (1, 2, 3). It can be seen that one side of the display provides visibility of the display, while the opposite side provides protection of the display. Also note the axis (3) extending in a transverse direction of the seat, and a means (6) for generating first and second torque, wherein 6 has the capability of producing the second torque with greater force than the first torque. The capacity exists for the first torque to cause travel to a certain point, wherein the second torque can cause travel beyond the certain point.

Claims 28, 35-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Shafer (1178107). Note the discussion of Shafer, above. Additionally note the braking mechanism (12).

Claims 41-43, 45, and 48-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Shafer (1178107). Note the discussion of Shafer, above.



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Claims 1-2, 4, 7, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones (5842715). Note the display (30), and multipart frame (mounting portions of 14).

Claims 1-10, 12-13, 15-17, and 21-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakurai (5529265). Note the display (10), spring member (8), damper member (7, 12), multipart frame (see Figure 1), and first and second sides (see Figure 1). Sakurai has the capacity for generating first and second torque, wherein the second torque has a greater force than the first torque. The capacity exists for the first torque to cause travel to a certain point, wherein the second torque can cause travel beyond the certain point.

Claims 41-43, 46 and 48-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakurai (5529265). Note the discussion of Sakurai, above.

***Allowable Subject Matter***

Claims 14, 32-34 and 44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Claims 14 and 44 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is 7033082117 (currently) and 5712726861 (after April 7, 2005). The examiner can normally be reached on Monday-Friday 5:30-3:00.

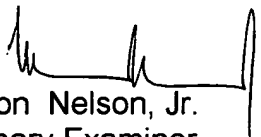
The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Milton Nelson, Jr.  
Primary Examiner  
Art Unit 3636

mn  
April 4, 2005